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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 ISREAL GARCIA-BORJA,

Case No. 3:18-cv-00573-RCJ-WGC

6 Petitioner,

7 v.

ORDER

8 ISIDRO BACA, et al.,

9 Respondents.

10 This habeas matter is before the Court on Petitioner Isreal Garcia-Borja's Declaration of
11 Election to Abandon Claims (ECF No. 23).

12 On December 23, 2019, the Court found Garcia-Borja's Petition for Writ of Habeas Corpus
13 (ECF No. 6) in this action to be mixed, containing both exhausted and unexhausted claims. (ECF
14 No. 21). The Court informed Garcia-Borja of his three options: (1) file a motion to dismiss seeking
15 partial dismissal of only the unexhausted claims; (2) file a motion to dismiss the entire petition
16 without prejudice in order to return to state court to exhaust the unexhausted claims; and/or (3) file
17 a motion for other appropriate relief, such as a motion for a stay and abeyance asking this Court to
18 hold his exhausted claims in abeyance while he returns to state court to exhaust the unexhausted
19 claims. (*Id.*)

20 Garcia-Borja has filed a declaration indicating his choice to voluntarily abandon and
21 dismiss his unexhausted claims: Grounds 1 and 3. Garcia-Borja will therefore pursue the one
22 exhausted claim: Ground 2. Respondents did not oppose this motion, and the time for doing so
23 has expired.

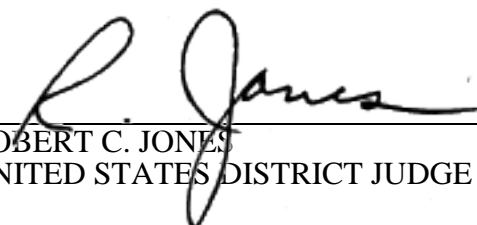
24 **IT IS THEREFORE ORDERED:**

- 25 1. Petitioner Isreal Garcia-Borja's request to voluntarily dismiss Grounds 1 and 3 of his
26 Petition for Writ of Habeas Corpus (ECF No. 6) is GRANTED.
- 27 2. Grounds 1 and 3 are DISMISSED WITHOUT PREJUDICE as unexhausted and by
28 Garcia-Borja's request.

- 1 3. Respondents will have 60 days to answer the remaining claim in this case: Ground 2.
- 2 4. In the answer, Respondents must specifically cite to and address the applicable state
- 3 court written decision and state court record materials, if any, regarding each claim
- 4 within the response as to that claim.
- 5 5. Garcia-Borja will have 30 days to file any reply to the answer.
- 6 6. Any additional state court record and related exhibits must be filed in accordance with
- 7 LR IA 10-3 and LR IC 2-2 and include a separate index identifying each additional
- 8 exhibit by number or letter. The index must be filed in CM/ECF's document upload
- 9 screen as the base document to receive the base docket number (*e.g.*, ECF No. 10).
- 10 Each exhibit will then be filed as "attachments" to the base document—the index—to
- 11 receive a sequenced sub-docket number (*e.g.*, Exhibit A (ECF No. 10-1), Exhibit B
- 12 (ECF No. 10-2), Exhibit C (ECF No. 10-3), and so forth). If the exhibits will span more
- 13 than one filing, the base document in each successive filing must be either a copy of
- 14 the index or volume cover page. *See* LR IC 2-2(a)(3)(A).
- 15 7. A paper copy of any exhibits over 50 pages—for this case—must be delivered to the
- 16 Las Vegas Clerk's Office and addressed to the attention of "Staff Attorney." Paper
- 17 copies must be (i) file-stamped copies, bearing the document number assigned by the
- 18 CM/ECF system, (ii) securely bound on the left side to display the document number,
- 19 and (iii) tabbed to display exhibit numbers or letters on the right side or bottom of the
- 20 copies. *See* LR IA 10-3(i); LR IC 2-2(g).

21 DATED this 6th day of February, 2020.

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24 ROBERT C. JONES

25 UNITED STATES DISTRICT JUDGE

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